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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/827,687	04/06/2001	Philip B. Webb	P50-0043	5049
7590 06/29/2006				
Alan A. Csontos, Esquire Michelin Intellectual Property Department P.O. Box 2026 Greenville, SC 29602-2026			EXAMINER KESACK, DANIEL	
			ART UNIT 3624	PAPER NUMBER

DATE MAILED: 06/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/827,687	WEBB ET AL.	
	Examiner	Art Unit	
	Dan Kesack	3624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 April 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>4/6/2001</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This application has been reviewed. Original claims 1-23 are currently pending.
The rejections are as stated below.

Priority

2. If applicant desires to claim the benefit of a prior-filed application under 35 U.S.C. 120, a specific reference to the prior-filed application in compliance with 37 CFR 1.78(a) must be included in the first sentence(s) of the specification following the title or in an application data sheet. For benefit claims under 35 U.S.C. 120, 121 or 365(c), the reference must include the relationship (i.e., continuation, divisional, or continuation-in-part) of the applications.

If the instant application is a utility or plant application filed under 35 U.S.C. 111(a) on or after November 29, 2000, the specific reference must be submitted during the pendency of the application and within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior application. If the application is a utility or plant application which entered the national stage from an international application filed on or after November 29, 2000, after compliance with 35 U.S.C. 371, the specific reference must be submitted during the pendency of the

application and within the later of four months from the date on which the national stage commenced under 35 U.S.C. 371(b) or (f) or sixteen months from the filing date of the prior application. See 37 CFR 1.78(a)(2)(ii) and (a)(5)(ii). This time period is not extendable and a failure to submit the reference required by 35 U.S.C. 119(e) and/or 120, where applicable, within this time period is considered a waiver of any benefit of such prior application(s) under 35 U.S.C. 119(e), 120, 121 and 365(c). A benefit claim filed after the required time period may be accepted if it is accompanied by a grantable petition to accept an unintentionally delayed benefit claim under 35 U.S.C. 119(e), 120, 121 and 365(c). The petition must be accompanied by (1) the reference required by 35 U.S.C. 120 or 119(e) and 37 CFR 1.78(a)(2) or (a)(5) to the prior application (unless previously submitted), (2) a surcharge under 37 CFR 1.17(t), and (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2) or (a)(5) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional. The petition should be addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

If the reference to the prior application was previously submitted within the time period set forth in 37 CFR 1.78(a), but not in the first sentence(s) of the specification or an application data sheet (ADS) as required by 37 CFR 1.78(a) (e.g., if the reference was submitted in an oath or declaration or the application transmittal letter), and the information concerning the benefit claim was recognized by the Office as shown by its inclusion on the first filing receipt, the petition under 37 CFR 1.78(a) and the surcharge

under 37 CFR 1.17(t) are not required. Applicant is still required to submit the reference in compliance with 37 CFR 1.78(a) by filing an amendment to the first sentence(s) of the specification or an ADS. See MPEP § 201.11.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 12 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 12 recites, “accepting a communication link with a customer, responsive to a request for a link prior to displaying the image of the tire”. It is unclear from the claim language as to who or what is completing the steps of accepting, requesting for a link, and displaying, and whether these steps are performed by the same component of the present invention. Furthermore, the phrase “displaying the image of the tire” lacks antecedent basis in claim 1. If this phrase is a reference to the step of “displaying a representation of the tire” as recited in claim 1, then it must be claimed using the antecedent terminology.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claims 1-12 and 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee, U.S. Patent No. 6,985,876.

Claims 1, 11, 12, Lee discloses an e-commerce system which enables a user to configure a customizable product for purchase, visually view the customized product, and submit the product order. Lee teaches displaying a representation of the product, indicating at least one selectable portion for customization (column 2 lines 28-34), displaying selectable features for the at least one selectable portion, accepting a customer selection of a selectable feature to apply to the at least one selectable portion

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(column 2 lines 36-49), accepting a customer communication to order the custom product having the selected features, and generating an order in electronic form to purchase at least one custom tire having the selected features (column 2 lines 50-57).

Lee fails to teach the step of manufacturing the custom product, or the product being a tire.

The step of manufacturing the product is an obvious next step in the teachings of Lee. Lee discloses an invention for configuring a product for purchase. If a customer purchases a custom product, the obvious next step would be to manufacture said product.

Examiner respectfully points out that the teachings of Lee are not limited to a specific type of product and may be used to order any customizable product, including tires. Lee teaches that a product may be described as being customizable if it includes one or more attributes, properties, or components that may be selected, configured or specified by the customer (column 5 lines 46-49). Specifically directing the current invention towards tires is regarded as intended use, and as such is not held to be a patentable limitation.

Claim 2, 3, Lee teaches providing a visual representation of the selected feature applied to the selected portion (column 2 lines 40-49).

Claims 4-10, 17-19, Lee fails to teach the customizable components being one of a portion of the tread, a portion of the sidewall, colored tread rubbers, performance characteristics, size, model, and quantity.

Official Notice is taken that a portion of the tread, a portion of the sidewall, colored tread rubbers, performance characteristics, size, model, and quantity are all old and well known customizable components of a custom tire. Lee teaches that a component may be described as being customizable if the one or more components include attributes or properties that may be selected or configured, wherein the user may select one of various possible component options (column 5 lines 49-53).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the teachings of Lee to include the components of a portion of the tread, a portion of the sidewall, colored tread rubbers, performance characteristics, size, model, and quantity as customizable components.

8. Claims 13, 14, 20, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee, U.S. Patent No. 6,985,876, as applied to claims 1-12 above, and further in view of Lemchen, U.S. Patent No. 6,594,642.

Lee fails to teach using the order in electronic form to control an automated manufacturing process, and generating a manufacturing specification for the tires.

Lemchen discloses an automated customized remote ordering and manufacturing process wherein a user selects options for a product and submits an order over the Internet, which is received and converted to executable machine

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instructions, which are then transmitted to the manufacturing system which produces the product according to the specified options of the user order (column 2 lines 35-50). It would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the teachings of Lee to include an automatic order processing and manufacturing component because it is desirable that the process be automated to increase latency and efficiency of completing orders placed with the system.

9. Claims 15, 16, 22, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee and Lemchen, as applied to claims 1, 13, 17, and 20 above, and further in view of Sergel, U.S. Patent No. 6,699,344.

Lee and Lemchen fail to teach the use of an extruder and a stripwinder for the production of the customized components, extruding and stripwinding the components for incorporation into an uncured tire, and vulcanizing the tire.

Sergel teaches forming a tire and the components of a tire using an extruder, and the processes of stripwinding and vulcanizing. It would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the teachings of Lee and Lemchen to include the method for forming a tire and its components, as taught by Sergel because it is disclosed as an effective method for producing components of a tire and forming them into a completed tire, and a customized tire as formed in the automated customized product method taught by the combination Lee and Lemchen would require such a method.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Cole, U.S. Patent No. 3,608,605, Cardinal, U.S. Patent No., 3,877,655, and Okada, U.S. Patent No. 6,039,826 disclose methods and machines for manufacturing tires.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dan Kesack whose telephone number is 571-272-5882. The examiner can normally be reached on M-F, 8am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on 571-272-6747. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


HANI M. KAZIMI
PRIMARY EXAMINER